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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR - 6 1992

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Petition for Rulemaking to )  
Modify the Regulatory Treatment ) RM - 7913  
of COMSAT World Systems' Multi- )  
Year Fixed-Price Carrier-to- )  
Carrier Contract Based Switched- )  
Voice Services )

COMMENTS OF AT&T

Pursuant to Section 1.405(a) of the Commission's  
Rules (47 C.F.R. § 1.405(a)) American Telephone and  
Telegraph Company ("AT&T") hereby comments on the  
above-captioned petition.

The Communications Satellite Corporation, through  
its COMSAT World Systems Division ("COMSAT") petitions for  
a rulemaking to modify the regulatory treatment of  
COMSAT's multi-year fixed-price contract-based  
switched-voice services (the "Services") used by AT&T and  
other carriers to provide International Message Toll  
Services. COMSAT seeks to replace rate-of-return  
regulation of the Services with a price cap-style  
regulatory program that would: (1) cap rates for the  
Services at the levels in effect as of January 1, 1992;  
(2) allow COMSAT to file, on 14 days notice, lower rates  
for the Services, which would be considered prima facie  
lawful as long as they cover average variable costs;

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(3) exclude earnings from the Services from rate-of-return regulation applied to all other COMSAT services; and  
(4) not include any adjustments for exogenous cost changes or incentives for productivity improvements.\*

COMSAT claims that this change in regulatory treatment is justified by increased facilities competition to COMSAT's international satellite services from submarine fiber optic cables and separate satellite systems, as well as by the replacement of the Commission's circuit distribution guidelines with circuit distribution agreements between COMSAT and its two largest carrier customers, AT&T and MCI.\*\* These changes, COMSAT asserts, have driven its prices for the Services down to competitive levels.\*\*\*

AT&T does not oppose consideration of price cap regulation for COMSAT's Services addressed by its petition. In fashioning any appropriate price cap structure for COMSAT, however, the Commission should address as part of a rulemaking proceeding: (1) what would be the appropriate starting point for the rates that would establish COMSAT's initial price caps, and (2) the effects of the AT&T-COMSAT agreement for allocation of

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\* COMSAT Petition, at 4-5.

\*\* Id. at 3.

\*\*\* Id. at 11.

embedded traffic and a portion of growth traffic to COMSAT, which is a legacy of regulatory prescription and, in effect, guarantees a substantial share of AT&T traffic to COMSAT.

One of the premises of COMSAT's Petition is its claim that the January 1, 1992 prices it seeks to establish as rate ceilings for the Services reflect competition and AT&T's "bargaining power," and that no one opposed the filing of those rates.\* However, the January 1, 1992 rates are the product of COMSAT's unilateral decisions and reflect neither competition nor AT&T's alleged "bargaining power." Rather, they reflect COMSAT's residual monopoly power and therefore are too high to adopt as initial price cap levels.

In negotiations with COMSAT, AT&T sought a market-based price of approximately \$350 per voice-grade circuit for all of its circuits, embedded as well as growth, and a rate structure that would mirror the INTELSAT structure.\*\* COMSAT, however, rejected AT&T's proposals and instead filed the rates that became

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\* COMSAT Petition, at 9-12.

\*\* AT&T's target price of \$350 was based on its conservative evaluation of what today's competitive price should be, given prices for equivalent circuits charged by domestic satellite service providers, by separate satellite systems, by the INTELSAT rate of \$235 per voice-grade circuit that is charged to COMSAT, and by prices that could be made available by other international space segment providers.

effective on January 1, 1992. The filed rates provide a far higher price of \$690 per voice grade circuit for embedded circuits and come close to AT&T's target price only for new growth circuits, which represent a small percentage of AT&T's total traffic placed with COMSAT, and as to which AT&T has somewhat greater loading flexibility. Thus, it appears that there is a substantial basis for concluding that the January 1, 1992 rates which COMSAT proposes as the initial price cap rates are excessive. As part of any rulemaking proceeding, therefore, the Commission should also initiate a proceeding under Section 205 of the Communications Act to prescribe new, just and reasonable rates which would serve as COMSAT's initial price caps. As it did in the local exchange carrier price cap proceeding, the Commission should also consider appropriate refund and sharing mechanisms for COMSAT, as well as exogenous cost change and productivity adjustments to be applied to the initial COMSAT price cap levels.

A second premise of COMSAT's Petition is that "there is no longer any regulatory requirement that carriers route any amount of traffic over satellite facilities."\* That statement, however, ignores the fact that the current circuit distribution agreement is the

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\* COMSAT Petition, at 7.

result of prior mandatory circuit distribution guidelines, and thus shares some of the infirmities of the prior regime.

Before 1988, the Commission's international circuit distribution guidelines in essence required AT&T -- but not other carriers -- to divide its IMTS traffic between COMSAT space segment on the one hand, and submarine cables owned by AT&T, other United States International Service Carriers ("USISCs") and foreign telecommunications authorities ("PTTs"), on the other hand.\* In 1987 the Commission instituted a rulemaking to consider post-1988 circuit distribution policy for AT&T's IMTS services, in which it proposed various options, ranging from disengagement by the Commission at year-end 1988 at one extreme, to a linear phase-out of Commission involvement over a period of time equal to the life expectancy of satellites in which INTELSAT investment was "sunk," at the other extreme.\*\* Most comments to the

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\* See, North Atlantic Telecommunications, 101 F.C.C.2d 1259 (1985) and Pacific Telecommunications, 102 F.C.C.2d 353 (1985). The underlying purpose of circuit distribution guidelines "has been to maintain the viability of the global [INTELSAT] system by requiring substantial use of the global satellite system by U.S. carriers which serve end-users directly and have investment interests in submarine cables," Policy for the Distribution of United States International Carrier Circuits Among Available Facilities During the Post - 1988 Period, 3 FCC Rcd 2156, 2160 (1988) (the "Circuit Distribution Order").

\*\* Circuit Distribution Order, 3 FCC Rcd at 2156.

Commission's proposals favored a gradual approach, while AT&T urged an immediate phase-out of Commission involvement in circuit distribution decisions.\*

After comments and reply comments but before Commission decision, AT&T and COMSAT filed their circuit distribution agreement, which required AT&T to retain on COMSAT space segment the embedded (year-end 1987) 20,099 voice-grade satellite circuits and place an average of 34 percent of its IMTS growth circuits from 1988 through 1994 on COMSAT space segment.\*\* AT&T and COMSAT intended the agreement to be "a replacement for Commission imposed circuit distribution guidelines.\*\*\*

The Commission determined that the AT&T-COMSAT agreement provided a basis for ending its imposition of circuit distribution guidelines for the post-1988 period.\*\*\*\* In support of its action, the Commission found that: (1) circuit distribution guidelines "that guarantee INTELSAT minimum levels of traffic . . . are no longer needed;" (2) regulatory policy that guarantees traffic to INTELSAT "creates disincentives for it to . . .

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\* Id., 3 FCC Rcd at 2156-2160.

\*\* Id., 3 FCC Rcd at 2158.

\*\*\* Id., 3 FCC Rcd at 2156.

\*\*\*\* Id., 3 FCC Rcd at 2160.

adapt to an increasingly competitive environment;" and (3) continuation of circuit distribution guidelines would be "inconsistent with development of a policy that permits carriers and users to make facilities and service decisions free from regulatory interference."\*

These findings are as valid today as they were in 1988; only the form of circuit distribution regulation has changed. Nevertheless, the AT&T-COMSAT agreement continues to guarantee COMSAT a significant portion of AT&T's traffic and thus, as shown above, reduces COMSAT's incentives to price the Services competitively. This impediment to intermodal competition will continue to give COMSAT the ability to price space segment supra-competitively, at least until the circuit distribution agreement expires in 1995. Thus, any rulemaking proceeding should address the AT&T-COMSAT agreement, particularly in the context of fashioning appropriate refund and sharing mechanisms and establishing initial price cap levels and exogenous cost change and productivity adjustments for COMSAT.

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\* Id.

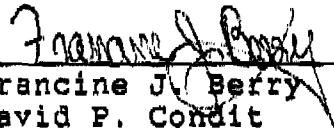
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WHEREFORE, for the reasons stated herein, AT&T  
does not oppose COMSAT's Petition for Rulemaking, subject  
to the modifications described above.

Respectfully submitted,

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

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April 6, 1992



CERTIFICATE OF SERVICE

I, Janice Knapp, do hereby certify that a true copy of the foregoing Comments of AT&T on COMSAT's Petition for Rulemaking to Modify the Regulatory Treatment of COMSAT World Systems' Multiyear Fixed-Price Carrier-to-Carrier Contract Based Switched-Voice Services, RM-7913, was served on this 6th day of April, 1992, by First Class Mail, postage prepaid, to the parties named on the attached service list.

Janice Knapp  
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Dated: April 6, 1992

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